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REGULATING THE

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IN THE

STATE OF CALIFORNIA.

PASSED APRIL THIRD, 1876, AND APRIL FIRST, 1878.

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LAWS REGULATING THE
PRACTICE OF MEDICINE
IN THE
STATE OF CALIFORNIA.

An Act to regulate the Practice of Medicine in the State of California—Approved April 3, 1876.

The People of the State of California, represented in Senate and Assembly, do enact as follows: Every person practicing medicine, in any of its departments, shall possess the qualifications required by this Act. If a graduate in medicine, he shall present his diploma to the Board of Examiners herein named, for verification as to its genuineness. If the diploma is found genuine, and if the person named therein be the person claiming and presenting the same, the Board of Examiners shall issue its certificate to that effect, signed by all of the members thereof, and such diploma and certificate shall be conclusive as to the right of the lawful holder of the same to practice medicine in this State. If not a graduate, the person practicing medicine in this State shall present himself before said Board, and submit himself to such examinations as the said Board shall require; and if the examination be satisfactory to the Examiners, the said Board shall issue its certificate in accordance with the facts, and the lawful holder of such certificate shall be entitled to all the rights and privileges herein mentioned. [*Amended by Act of 1878.*]

SEC. 2. Each State Medical Society incorporated, and in active existence on the tenth day of March, eighteen hundred and seventy-six, whose members are required to possess diplomas or licenses from some legally chartered medical institution in good standing, shall appoint annually, a Board of Examiners, consisting of seven members; who shall hold their office for one year, and until their successors shall be chosen. The Examiners so appointed shall go before a County Judge and make oath that they are regular graduates, and licentiates, and that they will faithfully perform the duties of their office. Vacancies occurring in a Board of Examiners shall be filled by the society appointing it, by the selection of alternates or otherwise. *[Amended by Act of 1878.]*

SEC. 3. The Board of Examiners shall organize within three months after the passage of this Act. They shall procure a seal, and shall receive, through their Secretary, applications for certificates and examinations. The President of each Board shall have authority to administer oaths, and the Board take testimony in all meetings relating to their duties. They shall issue certificates to all who furnish satisfactory proof of having received diplomas or licenses from legally chartered medical institutions in good standing. They shall prepare two forms of certificates, one for persons in possession of diplomas or licenses, the other for candidates examined by the Board. They shall furnish to the County Clerks of the several counties a list of all persons receiving certificates. In selecting places to hold their meetings, they shall, as far as is reasonable, accommodate applicants residing in different sections of the State, and due notice shall be published of all their meetings. Certificates shall be signed by all the members of the Board granting them, and shall indicate the medical society to which the Examining Board is attached.

SEC. 4. Said Board of Examiners shall examine diplomas as to their genuineness, and if the diploma shall be found genuine as represented, the Secretary of the Board of Examiners shall receive a fee of one dollar from each graduate or licentiate, and no further charge shall be made to the applicants; but if it be

found to be fraudulent, or not lawfully owned by the possessor, the Board shall be entitled to charge and collect twenty dollars of the applicant presenting such diplomas. The verification of the diplomas shall consist in the affidavit of the holder and applicant that he is the lawful possessor of the same, and that he is the person therein named. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. Graduates may present their diplomas and affidavits, as provided in this Act, by letter or by proxy, and the Board of Examiners shall issue its certificate the same as though the owner of the diploma was present. [*Amended by Act of 1878.*]

SEC. 5. All examinations of persons not graduates or licentiates shall be made directly by the Board, and the certificates given by the Boards shall authorize the possessor to practice medicine and surgery in the State of California; but no examination into the qualifications of persons not holding diplomas or licenses shall be made after the thirty-first day of December, eighteen hundred and seventy-six. After that date no certificates shall be granted by them, except to persons presenting diplomas or licenses from legally chartered medical institutions in good standing.

SEC. 6. Every person holding a certificate from a Board of Examiners shall have it recorded in the office of the Clerk of the county in which he resides, and the record shall be indorsed thereon. Any person removing to another county to practice, shall procure an indorsement to that effect on the certificate from the County Clerk, and shall record the certificate, in like manner, in the county to which he removes, and the holder of the certificate shall pay to the County Clerk the usual fees for making the record.

SEC. 7. The County Clerk shall keep, in a book provided for the purpose, a complete list of the certificates recorded by him, with the date of the issue and the name of the medical society represented by the Board of Examiners issuing them. If the

certificate be based on a diploma or license, he shall record the name of the medical institution conferring it, and the date when conferred. The register of the County Clerk shall be open to public inspection during business hours.

SEC. 8. Candidates for examination shall pay a fee of five dollars, in advance, which shall be returned to them if a certificate be refused. The fees received by the Board shall be paid into the treasury of the medical society by which the Board shall have been appointed, and the expenses and compensation of the Board shall be subject to arrangement with the society.

SEC. 9. Examinations may be in whole or in part in writing, and shall be of an elementary and practical character, but sufficiently strict to test the qualifications of the candidate as a practitioner.

SEC. 10. The Boards of Examiners may refuse certificates to individuals guilty of unprofessional or dishonorable conduct, and they may revoke certificates for like causes. In all cases of refusal or revocation the applicant may appeal to the body appointing the Board. [*Amended by Act of 1878.*]

SEC. 11. Any person shall be regarded as practicing medicine, within the meaning of this Act, who shall profess publicly to be a physician and to prescribe for the sick, or who shall append to his name the letters of "M.D." But nothing in this Act shall be construed to prohibit students from prescribing under the supervision of preceptors, or to prohibit gratuitous services in cases of emergency. And this Act shall not apply to commissioned surgeons of the United States army and navy practicing within the limits of this State [*Amended by Act of 1878.*]

SEC. 12. Any itinerant vendor of any drug, nostrum, ointment, or appliance of any kind, intended for the treatment of disease or injury, or who shall, by writing or printing, or any other method, publicly profess to cure or treat diseases, injury, or deformity, by any drug, nostrum, manipulation, or other expedient, shall pay a license of one hundred dollars a month, to be collected in the usual way. [*Amended by Act of 1878.*]

SEC. 13. Any person practicing medicine or surgery in this State without complying with the provisions of this Act, shall be punished by a fine of not less than fifty dollars (\$50), nor more than five hundred dollars (\$500), or by imprisonment in the County Jail for a period of not less than thirty days nor more than three hundred and sixty-five days, or by both such fine and imprisonment, for each and every offense; and any person filing or attempting to file as his own, the diploma or certificate of another, or a forged affidavit of identification, shall be guilty of a felony, and, upon conviction, shall be subject to such fine and imprisonment as are made and provided by the statutes of this State for the crime of forgery.

SEC. 14. This Act shall take effect from and after its passage; but the penalties shall not be enforced till on and after the thirty-first day of December, eighteen hundred and seventy-six.

An Act supplemental to, and amendatory of, an Act entitled "An Act to regulate the Practice of Medicine in the State of California," approved April 3, 1876; passed April 1, 1878.

The People of the State of California, represented in Senate and Assembly, do enact as follows :

SECTION 1. Section one of an Act entitled "An Act to regulate the Practice of Medicine in the State of California," approved April 3, 1876, is hereby amended so as to read as follows: Section One. Every person in this State practicing medicine or surgery in any of its departments, shall possess the qualifications required by this Act. Every such person shall present his diploma to one of the Boards of Examiners herein named, together with the affidavit mentioned in section three (3) of this Act. If the Board shall find all the facts required to be stated in said affidavit to be true, the Board of Examiners shall issue its certificate to that effect, signed by all of the members thereof, and sealed

with the seal of the board, and such certificate shall be conclusive as to the rights of the person named therein, to practice medicine and surgery in any part of this State.

SEC. 2. Section two of said Act is hereby amended so as to read as follows: Section Two. The Medical Society of the State of California, the Eclectic Medical Society of the State of California, and the California State Homeopathic Medical Society, corporations organized and existing under and by virtue of the laws of this State, and no other corporation, society, persons or person, shall appoint annually a Board of Examiners, consisting of seven members, who shall hold their office for one year, and until their successors shall be chosen. The Examiners so appointed shall go before a District or County Judge and make oath that they are regular graduates, and that they will faithfully perform the duties of their office. Vacancies occurring in a Board of Examiners shall be filled by the society appointing it, by the selection of alternates or otherwise. The Boards of Examiners now organized or existing under and by virtue of their appointments by the aforesaid societies, shall continue to act as such boards until their successors are appointed at the next annual election.

SEC. 3. Section four (4) of said Act is hereby amended, so as to read as follows: Section Four. Said Board of Examiners shall examine diplomas as to their genuineness, and if the diploma shall be found genuine as represented, the Secretary of the Board of Examiners shall receive a fee of five dollars from each graduate or licentiate, and no further charge shall be made to the applicant; but if it be found to be fraudulent, or not lawfully owned by the possessor, the Board shall be entitled to charge and collect twenty dollars of the applicant presenting such diploma. The applicant shall accompany his diploma with an affidavit stating that he is the lawful possessor of the same; that he is the person therein named; that the diploma was procured in the regular course of medical instruction, and without fraud or misrepresentation of any kind; and that the medical institution granting the diploma had, at the time of the granting the

same, a full corps of medical instructors, and was, at the said time, a legally incorporated institution actually and in good faith engaged in the business of medical education, and in good standing as a medical institution, and that the applicant had complied with all the requirements of said institution. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. In addition to such affidavit the Board of Examiners may hear such further testimony as in their discretion they may deem proper to hear as to the verification of any such diploma, or as to the identity of the person named therein, or as to the manner in which any such diploma was procured. And if it should appear from such testimony that any fact stated in said affidavit is untrue, the application of such person for a certificate shall be rejected. None of said Boards shall entertain an application which has been rejected by another of said Boards, nor shall any rejected application be renewed until at least one year after the action of the Board rejecting the same.

SEC. 4. Section ten (10) of said Act is hereby amended so as read as follows: Section Ten. The Boards of Examiners must refuse certificates to individuals guilty of unprofessional conduct. But before any such refusal, the applicant must be cited by a citation signed by the secretary of the Board, and sealed with its seal, to appear before the Board at a time and place certain for the purpose of being heard as to such unprofessional conduct. Said citation shall notify the applicant of the time and place, where and when the matter of said unprofessional conduct shall be heard; the particular unprofessional conduct with which the applicant is charged; and that the applicant shall then and there appear in person, and attended with such witnesses to testify on his behalf as he may desire, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas issued by the secretary of the Board under its seal, and said secretary shall in no case refuse to issue any such subpoena

on a fee of fifty cents being paid him for each subpoena. Said citations and said subpoenas shall be served in accordance with existing provisions of law as to the service of citations and subpoenas generally. At such hearing witnesses shall be examined on the part of the Board, and on the part of the applicant, as to the fact of the applicant having been guilty of the conduct set out in the citation, and either side may examine medical experts as to whether such conduct is unprofessional, and if it appear to the satisfaction of the board that the applicant is guilty of the said unprofessional conduct, no certificate shall be issued to him. But no application shall be refused on the ground of unprofessional conduct, unless the applicant has been guilty of unprofessional conduct within one year next preceding his application. If any holder of a certificate be guilty of unprofessional conduct his certificate must be revoked by the Board granting it; but no such revocation shall be valid without said holder being cited to appear, and the same proceedings be had as is hereinabove provided in this section, in the case of refusal to grant a certificate. Whenever a certificate is revoked, the secretary of the Board revoking the same, shall certify the fact under the seal of the Board, to the county clerk of the county in which the person whose certificate has been revoked is at the time of said revocation practicing his profession, and said clerk shall thereupon write on the margin or across the face of his register of the certificate of such person the fact of such revocation, signing his name thereto, and shall file in his office said certificate of revocation. Each of said Boards may from time to time adopt such rules as may be necessary to the orderly conduct of all proceedings taken and had before it. It shall be the duty of the secretary of the respective Boards to notify the secretary of all other Boards provided for under this Act of all applicants to whom licenses may have been refused, together with the reasons of such refusal by such Boards.

SEC. 5. Section eleven (11) of said Act is hereby amended so as to read as follows: Section Eleven. Any person shall be regarded as practicing medicine within the meaning of this Act, who shall profess publicly to be a physician, or who shall habitually pre-

scribe for the sick, or who shall append to his name the letters "M. D." But nothing herein contained shall be construed to prohibit gratuitous services in cases of emergency. And this Act and the Act to which this Act is supplemental and amendatory shall not apply to lawfully commissioned surgeons of the United States army or navy practicing their profession within the limits of this State.

SEC. 6. Section twelve (12) of said Act is hereby amended so as to read as follows: Section Twelve. Any itinerant vender who shall sell or offer for sale any drug, nostrum, ointment, or appliance of any kind intended for the treatment of disease or injury ; or any person who shall, by writing or printing, or by any other method, publicly profess to cure or treat disease, injury or deformity by any medicine, drug or drugs, nostrum, manipulation, or other expedient, shall pay a license of one hundred dollars a month. Such license shall be collected as other licenses are.

SEC. 7. Any person practicing medicine or surgery in this State, without first having procured a certificate to so practice from one of the Boards of Examiners appointed by one of the societies mentioned in section two of this Act, shall be deemed guilty of a misdemeanor and shall be subject to the penalties provided in section thirteen of the Act to which this Act is amendatory and supplemental; but no person who holds a certificate from one of such Boards of Examiners, or who holds a certificate heretofore granted by the Board of Examiners heretofore existing by virtue of appointment by the California State Medical Society of Homeopathic Practitioners, shall be compelled to procure a new certificate; and all powers and privileges of said Boards of Examiners under the Act to which this Act is supplemental and amendatory are hereby transferred to the Boards of Examiners created by this Act.

SEC. 8. Any person assuming to act as a member of a Board of Examiners, under this Act, or under the Act to which this Act is supplemental and amendatory, and who shall sign or subscribe,

or issue or cause to be issued or seal or cause it to be sealed a certificate authorizing any person to practice medicine or surgery in this State except the person so acting and none be appointed by one of the witnesses mentioned in section two of this Act or the surrogate or to be a Board of Examiners appointed by one of said witnesses shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars or by imprisonment in the County Jail for a period of not less than thirty nor more than three hundred and sixty days, or by both such fine and imprisonment.

Sec. 9. Should either of the said Boards issue a certificate to any person whose application for a certificate has been previously rejected by either of the said Boards within one year after the expiration of such application, then in such case the certificate issued to said person or said rejected applicant shall be null and void and of no effect.

Sec. 10. If any person not a graduate or licensee of medicine has been unable to present himself for examination to any of said Boards, as provided in section one of this Act, then and in such case it shall be lawful for either of said Boards, on good cause shown why said person was unable so to present himself for examination, to examine such person touching his qualifications to practice medicine or surgery, and if said examination shall be satisfactory to the Board, it shall thereupon issue its certificate in accordance with the facts and the lawful holder thereof shall be entitled to all the rights and privileges of graduates or licentiates to whom certificates have been issued under this Act, and the Act to which this Act is amendatory and supplemental, but no such examination shall be had after the expiration of sixty (60) days from the time this Act shall take effect.

Sec. 11. This act shall be in effect from and after its passage.



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